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Water District 1

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RECEIVED

MAR 29 2004

Department of Water Resources

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TO: Jerry Rigby
Chairman
Idaho Water Resource Board

FROM: Ron Carlson

DATE: March 25, 2004

Please find enclosed the 2004 Rental Pool Rules for Water District 1. The Committee of Nine approved these on Friday, March 19, 2004. They have asked that a copy of these rules be forwarded to you for the Water Resource Board's approval.

WATER DISTRICT 1

RENTAL POOL PROCEDURES

RULE 1. AUTHORITY AND STATEMENT OF PURPOSE.

- 1.1. These procedures have been adopted by the Committee of Nine pursuant to Section 42-1765, Idaho Code, to assure the orderly operation of the Water District 1 Rental Pool by the Committee of Nine of Water District 1. Under no circumstances shall these procedures be interpreted or construed to limit the authority of the director of the Department of Water Resources, the Water Resource Board, the Committee of Nine, or the Snake River Watermaster in discharging their duties as set forth in the statutes of the state of Idaho and rules and the regulations promulgated thereto.
- 1.2. The purpose of these procedures is to provide:
 - A. The procedures by which the Committee of Nine, acting under the authority of their appointment by the Water Resource Board, as a local operating committee, will make stored water available for rent through the Rental Pool.
 - B. The process, consistent with the Idaho Code and the rules of the Idaho Water Resource Board, by which stored water supplies may be made available, for a specified period of time and for a particular beneficial use, to water users who need additional water.
 - C. Incentives for those owning reservoir space and having stored water which may be, from time to time, surplus to their needs, to make such space and water accruing thereto available to the rental pool for other users and uses.
 - D. Funding to Water District 1 for administrative costs associated with operation of the rental pool; for making improvements in distribution facilities; for improving efficiency in the distribution of water within Water District 1; and in better managing water resources of the Snake River.
 - E. Controls, priorities and safeguards to insure that existing water rights are not injured and that an adequate supply of stored water may be obtained from available supplies for the irrigation of lands of spaceholders above Milner before such available storage is rented for irrigation of other lands and for other purposes.
- 1.3. All those holding space in Snake River Water District 1 will have the first

opportunity to participate in the benefits of the Rental Pool. These procedures are designed to assure that spaceholders will have the first priority to acquire storage from the rental pool for irrigation purposes.

- 1.4 The storage designated by these procedures for covering ag rentals to spaceholders (any amount) and for small non-spaceholder rentals (less than 100 acre-feet) shall be the storage assigned to the rental pool, and if such assignments are insufficient, a maximum of 50,000 acre-feet from gains in the upper Snake reservoir storage system after the date storage allocations are made by the Watermaster of Water District 1 and November 1, and approved by the spaceholder of the space to which said storage gains are allocated. This storage is referred to in these procedures as "late-season-fill". The accounting for the rental of late-season-fill by an approving spaceholder shall be accomplished by deducting the late-season-fill that has been used for rental from the rental pool or by the spaceholder, from the spaceholder's allocation of storage water in the following year as though no late-season-fill had been rented or used prior to storage allocation.
- 1.5 The storage designated by these procedures for covering rentals to non-spaceholders in excess of 100 acre-feet and to all water users for non-ag purposes shall be the storage supplied by spaceholders as designated in their rental supply forms, rented by private lease on an annual basis by a spaceholder, or assigned by all spaceholders under Rule 1.6 who agree to said assignment.
- 1.6 In anticipation of a long-term agreement, the spaceholders in Water District 1 agree to continue their best efforts under the willing lessor/lessee arrangement to make water available to the Bureau for flow augmentation below the Hells Canyon Complex on the Snake River, and for the year 2004, 3% of the storage water allocated for this year shall be assigned for rental to the Bureau, and all payments made by the rental of this assigned storage, exclusive of administrative costs and surcharges, shall be paid to the spaceholder providing such storage.

RULE 2. DEFINITIONS.

- 2.1. **ACRE-FOOT** - a volume of water sufficient to cover one acre of land one foot deep and is equal to 43,560 cubic feet.
- 2.2. **ANNUAL** - refers to the period between annual meetings of Water District 1, and normally will be a period starting the first Tuesday in March and ending on the first Monday of March of the succeeding year.
- 2.3 **APPLICANT** – any person who seeks to rent storage water from the Rental Pool by submitting a request to rent storage water, accompanied by a required cash deposit.
- 2.4 **ASSIGNMENT** – a transfer of a spaceholder's storage to the rental pool of the Committee for rental or lease by the Committee.

- 2.5. **ASSIGNOR** – the spaceholder who made an assignment of storage to the rental pool.
- 2.6. **BOARD** - the Idaho Water Resource Board.
- 2.7. **BUREAU** - the Bureau of Reclamation, Department of the Interior, United States of America, or USBR.
- 2.8. **COMMITTEE** - the Committee of Nine, the advisory committee selected by Water District 1 at their annual meeting, and appointed as the local committee by the Board pursuant to I.C. §42-1765.
- 2.9. **DEPARTMENT** - the Idaho Department of Water Resources or IDWR.
- 2.10. **DIRECTOR** - the director of the IDWR.
- 2.11. **DISTRICT** - Snake River Water District 1 of the state of Idaho.
- 2.12. **IMPACT TO SPACEHOLDER** – the reduction in storage within a spaceholder’s space as a result of storage water rentals that occurred in the previous year.
- 2.13. **LATE SEASON FILL** – an increase in the amount of water stored in the eight major reservoirs located above Milner Dam after the date storage allocations are made by the Watermaster of Water District 1 for the current irrigation year.
- 2.14. **LEASE** - a written agreement through which the Watermaster, with the approval of the Rental Pool Committee is authorized to deliver storage water in the rental pool to a lessee at a point of diversion located in Water District 1.
- 2.15. **LESSEE** –any person who rents water from the rental pool from which storage rentals are accommodated.
- 2.16. **LONG-TERM RENTAL AGREEMENT** – a contract between an applicant and the Committee by which applicant agrees to rent a specific amount of storage from the Rental Pool in future years under approved mitigation agreements with the IDWR.
- 2.17. **MILNER** - Milner Dam or the lowest diversion in Water District 1.
- 2.18. **PERSON** - any individual, corporation, partnership, irrigation district, canal company, or other political subdivision or governmental agency.
- 2.19. **PRIVATE LEASE** – a written agreement by which a spaceholder authorizes

the Watermaster to deliver storage water of the spaceholder to another user pursuant to the terms of that agreement, which terms shall be consistent with the terms of the rental of storage water from the rental pool by the Watermaster.

- 2.20. **RENT or RENTAL** – acquisition of storage from the Rental Pool, or the process by which water is made available through the Water District 1 Rental Pool pursuant to these procedures.
- 2.21. **RENTAL POOL** – storage water available for rental by the Committee pursuant to these procedures to fill rental requests in any given year. The Rental Pool also refers to the storage water activities administered by the Committee which has been appointed by the Water Resources Board to act as a local committee.
- 2.22. **RENTAL POOL COMMITTEE** - consists as follows: Three members of the Committee of Nine or alternates shall be appointed by the Chairman of the Committee of Nine. The Watermaster and a representative from the Bureau shall act as advisors to the Rental Pool Committee.
- 2.23. **RENTER** – the person receiving an approved application pursuant to these procedures.
- 2.24. **SPACE** - all or any portion of the active impoundment volume of a reservoir measured in acre-feet.
- 2.25. **SPACEHOLDER** – the person who holds the contractual right to the water stored in the space of a storage facility allocated to that person.
- 2.26. **STORAGE ASSIGNMENT FORM** - written agreement by which storage water accruing to the space of a spaceholder is assigned to the committee for rental, which assignment may be by the assignment of specific storage or by committing carry-over to meet rentals made during the irrigation season.
- 2.28. **UNAUTHORIZED USE** – Diversions of water by a wateruser after the Watermaster has advised the wateruser that he has exhausted his available water supply from storage and natural flow for that irrigation season.
- 2.27. **WATERMASTER** - the watermaster of Water District 1.

RULE 3. GENERAL PROCEDURES.

- 3.1. It is the policy of the water users of Water District 1 and the committee to operate the rental pool for the maximum beneficial use of available water supplies.

- 3.2. A primary purpose in the operation of the rental pool will be to benefit the spaceholders who are agricultural water users within Water District 1.
- 3.3. The operation of the rental pool shall not constitute any recognition of any obligation to maintain flows below Milner Dam, to assure the minimum stream flows established at the USGS gaging station on the Snake River near Murphy, nor to provide an independent and exclusive source of water for irrigation or mitigation.
- 3.4. The operation of the rental pool shall be consistent with the statutes creating the Water Supply Bank, the rules and regulations of the board, and the provisions of the spaceholder's contracts with the United States.
- 3.5. Storage water available to the rental pool will be from those spaceholders who choose to participate and have submitted written notice of participation to the Watermaster's office in Idaho Falls. Participation can be limited in duration and by storage amount, or may be based upon the extent of carryover in a spaceholder's space at the end of the irrigation season. Unless specified otherwise a request to participate will be assumed to be effective until rescinded by the spaceholder. Any monies disbursed pursuant to these procedures will be limited to participating spaceholders.
- 3.6. Unless otherwise provided in these procedures, the impacts, if any by the rental of storage under these procedures shall be waived except to the extent spaceholders shall have the first priority to rent water from the rental pool as herein provided.
- 3.7. It is the policy of the Committee of Nine, in operating the rental pool to facilitate annual rentals, and to base all transactions on the amounts supplied by spaceholders as herein provided
- 3.8. All leases of stored water within Water District 1, unless the associated change in point of diversion and place of use is being initiated through the statutory transfer process, shall be transacted through the Water District 1 Rental Pool, unless the transaction is an internal lease within the distribution system of a spaceholder or a private lease between a spaceholder and renter. For the year 2004, all private leases and internal leases will be accounted for by the manager of the rental pool and all administrative charges and surcharges of the Committee and the board shall be applicable, but these leases shall not be subject to priorities provided by Rule 7.1. An exception to this rule shall apply for other rental pools created by the board within Water District 1, including the Rental Pool of the Shoshone-Bannock Indian tribes established pursuant to the 1990 Fort Hall Agreement.

RULE 4. MANAGEMENT.

- 4.1 The Rental Pool shall be operated pursuant to Idaho Code, Section 42-1761 through 42-1766, in accordance with policies established by the Committee of Nine.
- 4.2. A sub-committee of the Committee of Nine, known as the Rental Pool Committee, under the direction of the Committee, shall have the following general responsibilities:
- A. To determine general policies regarding annual storage leases and rentals which may not be covered by the adopted procedures of the Committee of Nine.
 - B. To advise and direct the watermaster in the allocation of water from the rental pool.
 - C. To advise the Committee of Nine on storage rental activities and to make recommendations for changes in these procedures.
 - D. To recommend policies to the Committee for the disbursement of funds generated by the rental pool.
- 4.3. The watermaster shall act as the manager of the rental pool. The manager's authority shall include accepting water into the rental pool, executing rental agreements on behalf of the Committee, as recommended by the Rental Pool Committee, disbursing and investing funds generated through the rental of stored water, and distribution of water supplies from the rental pool, as recommended by the Rental Pool Committee. All funds invested shall be considered public funds for investment purposes pursuant to the Public Depository Law, Chapter 1, Title 57, Idaho Code.
- 4.4 All rentals from the rental pool by the Watermaster shall be final, and should the renter fail to use the storage rented, such renter shall not be entitled to a refund and the unused rented storage shall revert to the rental pool for allocation to the spaceholders having assigned water to the rental pool, on a prorated basis. A diversion by a spaceholder of storage in excess of his entitlement shall be charged against storage subsequently accruing to the spaceholder's credit and shall not be an unauthorized diversion so long as the diversion does not exceed storage credited to that shareholder's space.
- 4.5 The Watermaster will use his best efforts to assure that unauthorized diversions of water do not occur. In the case unauthorized diversions do occur, such unauthorized water diversions within Water District 1 will be charged by the Watermaster to the diverter as storage used. Any such unauthorized use of water shall be replaced from available rental pool supplies at a cost to the user equal to 150% of the established rental pool price. The Rental Pool Committee may also assess an additional eighty cents (\$0.80) to cover increased administrative costs. The administrative costs and increases

in the established rental pool price may be waived by the Rental Pool Committee upon a determination by it that such unauthorized use resulted from measurement or accounting errors of the Watermaster. If there is insufficient storage available in the rental pool during the current year to replace the water from the unauthorized user, then the unauthorized user's obligation shall be to replace the stored water diverted without authorization with stored water accruing in the unauthorized user's space in the following year or to rent water from the rental pool in the following year to replace said unauthorized diversions.

- 4.6 Any applicant, or any person assigning water to, or renting water from the rental pool, who is aggrieved by a decision of the Rental Pool Committee, or on matters related to the operations of the Water Supply Bank, shall provide written notice of the grievance to the Rental Pool Committee, who shall respond in writing within fifteen (15) days. The applicant then may request a hearing before the Committee of Nine within fifteen (15) days of the date that the Rental Pool Committee has made its final decision, in writing. After hearing the grievance and after review by the Committee, a decision will be made in writing and signed by a majority of the Committee. Said decision shall set forth the reasons for the Committee's decision. The decision of the Committee may be appealed to the Board by filing a written notice of appeal with the Committee and Board within thirty (30) days following the date of the Committee's decision.
- 4.7 The manager of the rental pool shall make a report on the first day of each month to the Rental Pool Committee, showing the storage assigned to the rental pool, the storage rented from the rental pool, with the names and storage, if designated, from which said water is assigned and the name and price paid by the entity renting water from the rental pool, and the date of such rental. The Rental Pool Committee may request an annual audit of the rental pool activities, including the disbursement and investment of funds, and may temporarily suspend rental from the rental pool.

RULE 5. STORAGE ASSIGNMENTS

- 5.1. Any person who owns or controls space or storage in a reservoir located in Water District 1 may seek to assign any portion of his space or accrued storage to the rental pool.
- 5.2. Assignments of space and water accruing therein or storage will be identified by reservoir. If no designation is made by an assignor holding space in more than one reservoir, it shall be understood that the water assigned shall be deducted from the spaceholder's total allocation from all reservoirs. Designation of specific reservoir space will be used to determine the total amount of water supplied to the rental pool by the spaceholder and may not have a bearing on the amount of water carried over in the reservoir account as

determined by the Bureau carryover rules and Water District #1 accounting procedures.

- 5.3. Assignments of storage to the committee shall be on a priority basis as set forth in rule 7.
- 5.4. Assignments of storage to the committee shall be in writing on Rental Supply Forms provided by the watermaster and shall bear the date they were received in the watermaster's office in Idaho Falls.
- 5.5. All storage assigned to the committee shall be under the control of the committee and shall be managed by the watermaster and the rental pool committee for the duration of the assignment.
- 5.6. The assignor (contract holder) is responsible for paying the assignor's continuing obligations to the Bureau of Reclamation for construction or annual operation and maintenance.
- 5.7. Storage assignments are subject to the approval of the Rental Pool Committee. Storage assigned to the rental pool may be rejected in whole, or in part, by the Rental Pool Committee or it may place special conditions on usage and allocation if, in the judgment of the Rental Pool Committee, accepting said water will not be in the best interest of the rental pool or the water users of Water District 1. No rejection of an assignment in part or acceptance with special conditions shall be effective until approved by the assignor.

RULE 6. DETERMINING RENTAL POOL SUPPLIES.

- 6.1. The amount of water for rent from the rental pool to spaceholders (any amount) and small, non-spaceholders (less than 100 acre-feet) for ag purposes shall first be determined by the amount of storage assigned to the rental pool, and the balance, not to exceed 50,000 acre-feet, that is anticipated to be available from late-season-fill of consenting spaceholders.
- 6.2. The amount of water available for rent from the rental pool to larger non-spaceholders (requests exceeding 100 acre-feet) for use above Milner or to water users for non-ag purposes below Milner shall be determined by the amount of storage assigned by spaceholders as indicated on their rental supply form, or as may be provided in private leases. The amount of water available for rent from the rental pool to the Bureau for flow augmentation below the Hells Canyon Complex on the Snake River shall be determined by assigning 3% of all spaceholders' storage at the time storage is allocated or allocation may be estimated by the Watermaster, to the rental pool for that purpose. Any additional water rented to the Bureau for flow augmentation shall be determined by the amount of assignments of storage to the rental pool for that purpose, and the space evacuated to provide rental water for this purpose shall

have a priority that is later in time than all other reservoirs in the system, and shall be known as space that is last-to-fill. At no time shall the amount rented for any purpose exceed the submittals to the rental pool.

RULE 7. LEASING WATER ASSIGNED TO THE RENTAL POOL AND DISTIBUTING RENTAL PAYMENTS

- 7.1 The first priority in renting water from the Rental Pool Committee shall be to spaceholders (any amount), existing long-term leases entered into by the Committee and approved by the board, and small, non-spaceholders (less than 100 acre-feet) for ag purposes, from storage assigned to the rental pool and if insufficient, an amount not to exceed 50,000 acre-feet anticipated of late-season fill of consenting spaceholders.
- 7.2 The second priority in renting water from the rental pool shall be to all water users not identified in Rule 7.1.
- 7.3. An entity who assigns storage or space to the rental pool for annual rental between May 15 and July 1 of any year shall share proportionally with others who assigned storage or space to the Committee during that period.
- 7.4. An entity who assigns storage or space to the rental pool for annual rental after July 1 of any year shall have their storage assigned rented from the rental pool to meet requests for the rental water from the pool in the priority in which said assignments have been received after July 1 of that year.
- 7.5 All requests for rental of water from the rental pool and filed between April 15 and May 15 of the year in which rental is sought, shall be granted under the priorities contained in Rules 7.1 and 7.2 and shall be considered collectively as a group in each priority and filled on a pro-rata basis by July 1 if demands exceed supply. All requests submitted after May 15 shall be considered on a first-come, first-serve basis if the rental supply exceeds the amount necessary to completely fill all requests received prior to May 15.
- 7.6 Whenever storage or space is assigned to the Committee for an annual lease, it will be assumed that it is the intention of the spaceholder to assign sufficient space to yield the designated amount of storage. If the yield from that space is insufficient to provide the designated amount of water, the assignment will be reduced to equal the yield from the space assigned.
- 7.7 If an entity should choose to assign all of his space to the Committee, the "yield" of that space shall be determined by the Watermaster after calculating the percentage of fill of that leased space in that particular reservoir, minus evaporation.

RULE 8. LEASE APPLICATIONS, PAYMENTS AND WATER COSTS.

- 8.1. The applicable rate for storage rented from the rental pool in the year 2004 shall be:
- A. A base rate of \$8.00 per acre-foot of water leased for uses above Milner, plus an administrative fee of 10% of said base rate which shall be collected and paid by the Rental Pool Committee to the Water Resource Board and an administrative fee of the Committee of eighty cents (\$0.80) per acre-foot.
 - B. A base rate of \$12.50 per acre-foot for the first 100,000 acre-feet of water leased for flow augmentation below Milner Dam, plus an administrative fee of 10% of said base rate which shall be collected and paid by the Rental Pool Committee to the Water Resource Board and an administrative fee of the Committee of eighty cents (\$0.80) per acre-foot.
 - C. A base rate of \$20.00 per acre-foot for all leases of water in excess of 100,000 acre-feet for use as flow augmentation below Milner, plus an administrative fee of 10% of said base rate which shall be collected and paid by the Rental Pool Committee to the Water Resource Board and an administrative fee of the Committee of eighty cents (\$0.80) per acre-foot.
- 8.2 All water leased for flow augmentation in excess of the 3% of allocated storage assigned to the rental pool shall be subject to a last-to-fill rule which last-to-fill shall apply to all storage reservoirs in the system.
- 8.3 No refunds of payments made for the rental of storage from the rental pool shall be made, whether or not the storage rented is used by the renter. All unused storage water rented by the renter shall revert to the space of assignors of storage to the rental pool, on a pro-rata basis, based upon storage assigned to the rental pool.
- 8.4 All lease monies held by the Watermaster will be held in a separate interest-bearing account with accrued interest being distributed on a pro-rata basis at the time that final payments are made. Water District 1 shall be entitled to use all rental funds on an as needed basis provided the principal and interest due Assignors is not affected.
- 8.5. Applications to lease storage shall be initiated upon forms provided by the Watermaster, shall be processed for the rental of storage as provided by Rule 7, and shall include the following information:
- A. The legal description of the point of diversion and the place of use.

- B. The amount of water requested to be leased.
 - C. The common name of the point of diversion. (e.g. Milner Dam, Harrison Canal, Covington pump etc.)
 - D. The beneficial use to be achieved through the delivery of water from the rented space. (e.g. irrigation, power production, recreation)
- 8.6. Applications must be received with the appropriate rental fee determined as provided in Rule 8.1.